



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP
Docket No. 947-00
21 July 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 3 July 1957 for four years at age 18. The record reflects that you served only two months without incident. During the 17 month period from October 1957 to March 1959 you received five nonjudicial punishments (NJP) and were convicted by two summary courts-martial. Your offenses consisted of four brief periods of unauthorized absence totalling about six days, failure to go to your appointed place of duty, two instances of drinking as a minor, failure to observe reveille, two instances of drunk and disorderly conduct, and assault.

On 11 March 1959 you were notified that you were being recommended for an other than honorable discharge by reason of unfitness. You declined to submit a statement in your own

behalf. Thereafter, the commanding officer (CO) recommended discharge, stating that you had a continuous record of petty offenses such as UA, misconduct ashore, fighting and a rebellious attitude toward authority. The CO also stated that all of these offenses stemmed from your over indulgence in alcohol, and repeated counseling and punitive actions had been unsuccessful. The CO noted that you began drinking at age 12, liked to drink, and intended to continue drinking at every opportunity. You were subsequently transferred a naval receiving station pending the decision of the Chief of Naval Personnel (CNP).

An enlisted performance evaluation board convened on 31 March 1959 and recommended an undesirable discharge by reason of unfitness. On 13 April 1959, CNP directed that you be separated with an undesirable discharge by reason of unfitness. However, the record reflects you committed a series of UAs from 26-29 March and 3-13 April, 30 April to 20 May, and 2-30 June 1959.

On 27 July 1959, the CO advised CNP of the foregoing UAs and stated that you were in confinement after breaking arrest on three occasions. The CO asserted that further disciplinary action would not be effective. On 30 July 1959, the CO notified CNP that unless otherwise directed you would be discharged under other than honorable conditions pursuant to CNP's direction of 13 April 1959. You were so discharged on 7 August 1959.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 40 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record five NJPs and two summary court-martial convictions. The Board noted that a number of your disciplinary actions were alcohol related. While alcohol abuse may be considered a mitigating factor, it does excuse misconduct. You have provided neither probative evidence nor a persuasive argument in support of your application. The Board concluded that you were guilty of too much misconduct to warrant recharacterization to honorable or under honorable conditions. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

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Disabled American Veterans